

Agreement No. 20179-\_\_\_\_\_

**INTERLOCAL COOPERATION AGREEMENT BETWEEN UTAH COUNTY AND  
~~THE~~ ELK RIDGE CITY RELATED TO THE EMERGENCY WATERSHED  
PROGRAM**

THIS IS AN INTERLOCAL COOPERATION AGREEMENT ~~AAgreement@~~ made and entered into the \_\_\_\_\_ day of \_\_\_\_\_, 20179 by and between Utah County, a political subdivision of the State of Utah, hereinafter referred to as ~~ACounty,@~~ and Elk Ridge City, a political subdivision of the State of Utah, hereinafter referred to as ~~AEntity@~~.

WITNESSETH:

**WHEREAS**, the Utah Interlocal Cooperation Act, Title 11, Chapter 13, Utah Code Annotated (2018), permits local governmental units including cities, counties, and political subdivisions of the State of Utah to make the most efficient use of their powers by enabling them to cooperate with other public entities on the basis of mutual advantage and to exercise joint cooperative action for the benefit of their respective citizens;

**WHEREAS**, pursuant to the Act, the parties desire to work together through joint and cooperative action that will benefit the residents of Entity and County; and

**WHEREAS**, the parties to this Agreement are public agencies as defined in the Act.

**NOW, THEREFORE**, the parties do mutually agree, pursuant to the terms and provisions of this Agreement as follows:

**Section 1. EFFECTIVE DATE; DURATION.**

This Agreement shall become effective as of the date the parties execute this Agreement by Resolution and it is filed with the keeper of records of each of the parties (the "Effective Date"). The term of this Agreement shall be from the Effective Date until completion of the design and construction of mitigation features related to the Bald Mountain and Pole Creek Fires which

occurred during September 2018, but not to be longer than 20 years from the Effective Date.

**Section 2. NO SEPARATE LEGAL ENTITY.**

The parties to this Agreement do not contemplate nor intend to establish a separate legal entity under the terms of this Interlocal Cooperation Agreement. The parties agree that pursuant to Utah Code section 11-13-207 the County, shall act as the administrator responsible for the administration of this Agreement. The parties further agree that this Agreement does not anticipate nor provide for any organizational changes in the parties. The administrator agrees to keep all books and records in such form and manner as the Utah County Clerk/Auditor shall specify and further agrees that said books shall be open for examination by the parties at all reasonable times.

**Section 3. PURPOSES.**

This Agreement has been established and entered into between the County and Entity for the design and construction of mitigation features related to the Bald Mountain and Pole Creek Fires which occurred during September 2018. These mitigation features are outlined in a Damage Survey Report prepared by the Natural Resource Conservation Service (NRCS) as part of an application for funding under the Emergency Watershed Program (EWP).

**Section 4. PARTIES RESPONSIBILITIES.**

1. COUNTY shall:

- Act as the sponsor for the EWP projects under NRCS
- \$ Execute a contract with the design consultant for the mitigation features requested by ENTITY as outlined in Damage Survey Report 5122-003 as shown in Exhibit "A"
- Reimburse ENTITY 75% of the eligible construction costs of the feature upon receipt of funds from NRCS as outlined in Exhibit "B". Payment shall be made to ENTITY within 30 days of receipt of funds from NRCS.
- Provide 50% of the acquisition costs for the land on which to build the proposed regional detention basin located at 11200 South Loafer Canyon Road.

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2. ENTITY shall:

- Provide a written request to utilize the design consultant retained by COUNTY
- Provide written acceptance or denial of the design within 14 calendar days of receipt of final construction drawings.
- Execute a contract for the construction of the proposed feature
- Acquire the land and/ or easements for the proposed mitigation features within Elk Ridge City
- Reimburse COUNTY for any design costs not covered by NRCS funds
- Reimburse COUNTY for 6.25% of the eligible construction costs and 16.67% of the land acquisition costs for the regional detention basin located at 11200 South Loafer Canyon Road as shown in Exhibit "B".

3. COUNTY and ENTITY shall:

- Combine engineering, resources, contractors and efforts as necessary to provide volume discounts and cost savings.
- Combine engineering, resources, contractors and efforts as necessary to save on schedule.
- Combine engineering, resources, contractors and efforts on anything that may be of mutual benefit.

**Section 5. METHOD OF TERMINATION.**

This Agreement will automatically terminate at the end of its term herein, pursuant to the provisions of paragraph one (1) of this Agreement. Prior to the automatic termination at the end of the term of this Agreement, any party to this Agreement may terminate the Agreement sixty (60) days after providing written notice of termination to the other parties. The Parties of this Agreement agree to bring current, prior to termination, any financial obligation contained herein.

**Section 6. INDEMNIFICATION.**

The Entity and the County are governmental entities and subject to the Governmental Immunity Act of Utah, Utah Code Ann. " 63G-7-101, et seq. (AGIAU@). Subject to the provisions

of the GIAU, the Entity and County agree to indemnify and hold harmless the other party, its agents, officers and employees from and against any and all actions, claims, lawsuits, proceedings, liability, damages, losses and expenses (including attorney's fees and costs) arising out of or resulting from the performance of this Agreement to the extent the same are caused by any negligent or wrongful act or omission of that party, its officers, agents or employees. Nothing in this Agreement shall be deemed a waiver of any rights, statutory limitations on liability, or defenses applicable to the Entity or the County under the GIAU.

**Section 7. FILING OF INTERLOCAL COOPERATION AGREEMENT.**

Executed copies of this Agreement shall be placed on file in the office of the County Clerk/Auditor of Utah County and with the official keeper of records of Entity, and shall remain on file for public inspection during the term of this Agreement.

**Section 8. ADOPTION REQUIREMENTS**

This Agreement shall be (a) approved by Resolution of the governing body of each of the parties, (b) executed by a duly authorized official of each of the parties (c) submitted to and approved by an Authorized Attorney of each of the parties, as required by Utah Code section 11-13-202.5, and (d) filed in the official records of each party.

**Section 9. AMENDMENTS.**

This Agreement may not be amended, changed, modified, or altered except by an instrument in writing which shall be: (a) approved by Resolution of the governing body of each of the parties, (b) executed by a duly authorized official of each of the parties, and (c) filed in the official records of each party.

**Section 10. SEVERABILITY.**

To the extent permitted by applicable law, the parties hereby waive any provision of law that would render any of the terms of this Agreement unenforceable. If any term or provision of

this Agreement or its application shall be invalid or unenforceable, the remainder of this Agreement shall not be affected, and shall be enforced to the extent permitted by law.

**Section 11. NO PRESUMPTION.**

Should any provision of this Agreement require judicial interpretation, the Court interpreting or construing the same shall not apply a presumption that the terms will be more strictly construed against the party, by reason of the rule of construction that a document is to be construed more strictly against the person who himself or through his agents prepared the same, it being acknowledged that each of the parties have participated in the preparation hereof.

**Section 12. HEADINGS.**

Headings are for convenience and reference only and shall not be considered any interpretation of the Agreement.

**Section 13. BINDING AGREEMENT.**

This Agreement shall be binding upon the heirs, successors, administrators, and assigns of each of the parties hereto.

**Section 14. NOTICES.**

All notices, demands, and other communications required or permitted to be given shall be in writing and shall be deemed to have been properly given if delivered by hand or by certified mail, return receipt requested, postage paid, to the parties at their addresses first above written, or at such other addresses as may be designated by notice given hereunder.

**Section 15. ASSIGNMENT.**

The parties to this Agreement shall not assign this Agreement, or any part hereof, without the prior written consent of all other parties to this Agreement. No assignment shall relieve the original parties from any liability hereunder.

**Section 16. GOVERNING LAW**

All questions with respect to the construction of this Agreement, and the rights and liability of the parties hereto, shall be governed by the laws of the State of Utah.

*[Signature on Following Page]*

**UTAH COUNTY**

Authorized by Resolution No. 20179-\_\_\_\_, authorized and passed on the \_\_\_\_ day of

\_\_\_\_\_, ~~2017~~ 2019.

BOARD OF COUNTY COMMISSIONERS  
UTAH COUNTY, UTAH

By: \_\_\_\_\_  
William C. Lee, Chairman

ATTEST: AMELIA A. POWERS  
Utah County Clerk/Auditor

By: \_\_\_\_\_  
Deputy County Clerk/Auditor

APPROVED AS TO FORM AND COMPATIBILITY  
WITH THE LAWS OF THE STATE OF UTAH:  
DAVID O. LEAVITT, Utah County Attorney

By: \_\_\_\_\_  
Deputy County Attorney



**ELK RIDGE CITY**

Authorized by Resolution No. \_\_\_\_\_, authorized and passed on the \_\_\_\_\_ day of \_\_\_\_\_, 2017~~9~~.

By: \_\_\_\_\_  
Mayor

ATTEST: \_\_\_\_\_  
City Recorder

APPROVED AS TO FORM AND COMPATIBILITY  
WITH THE LAWS OF THE STATE OF UTAH:

By: \_\_\_\_\_  
S. Junior Baker, City Attorney  
\_\_\_\_\_  
City Attorney

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